

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mehta *et al.*

Application No. 10/798,799

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Confirmation No. 5611

For: COMBINATORIAL THERAPY FOR
PROTEIN SIGNALING DISEASES

Examiner: Christopher M. Gross

Art Unit: 1639

Attorney Reference No. 4239-67983-01

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UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE TO RESTRICTION REQUIREMENT

This Response to Restriction Requirement (“Response”) is filed in answer to the non-final Office action, dated October 13, 2006 (“Office Action”). A one-month period for response was set by the Office Action; thus, this Response is timely filed on or before November 13, 2006. The Commissioner is authorized to charge any fees that may be required in connection with this filing to Deposit Account No. 02-4550.

The Office Action contends that the pending claims are directed to two “distinct” inventions and requires restriction to one alleged invention under 35 U.S.C. §121. Applicants elect Group I (claims 1-45), drawn to a method for selecting a combination of therapeutic agents.

The Office Action further contends that the alleged invention of Group I encompasses nine genera and requires an election of species in each of genus. Applicants elect the following species from the indicated genera:

Alleged Genus	Elected Species
Cell isolation technique:	laser capture microdissection.
Activity state measurement technique:	reversed phase protein microarray analysis
Reference cell:	a normal cell
Reference cell source:	same subject
Aberrant cellular response comprising:	abnormal growth
Measured activity:	post-translational modification

Alleged Genus	Elected Species
Combination of therapeutic targets:	EGFr phosphorylation and non-voltage gated calcium ion channels
Combination of therapeutics:	specific Cox-2 inhibitor and carboxyamidotriazole (CAI)
Signaling pathway:	a growth factor pathway

The Office Action also has required “identification of the claims encompassing the elected invention.” The elected invention is the alleged invention of Group I. The claims encompassing this invention are claims 1-45. Among the claims of Group I, claims 1-5, 7, 9-15, 17, 20-27, 29, 30, 31, and 36-44 encompass the elected species.

Applicants note that the examiner has requested the election of one signaling pathway. The invention of Group I, as exemplified by claim 1, involves, in relevant part, “. . . measuring activity states for a plurality of different signaling proteins extracted from a diseased cell, where the signaling proteins are members of *one or more signaling pathways or networks . . .*” (emphasis added). Some method embodiments involve two or more signaling pathways or networks. Applicants believe that the required election of “a growth factor pathway” species does not preclude, under the appropriate circumstances, the subsequent examination in this application of other species of signaling pathways, including “*one or more* signaling pathways or networks.” If this understanding is inaccurate or incorrect, the Examiner is requested to clarify the election of species.

Substantive examination of the pending claims is respectfully requested. The Examiner is invited to call the undersigned if the Examiner believes that a telephone interview would facilitate substantive examination of this application.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

By: /Debra A. Gordon/
Registration No. 54,128